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May 29, 2012

In re Merck & Co., Inc. Securities, Derivative & ERISA Litigation, No. 05-cv-2367
The Consolidated Securities Action

Dear Magistrate Judge Shipp:

We represent Defendants (other than Dr. Scolnick) in the above-referenced action.¹ We write regarding Plaintiffs' May 25, 2012 letter to the Court raising certain discovery disputes regarding Defendants' production. (*See* ECF No. 325.)

Plaintiffs' letter violates Your Honor's Individual Rules which specifically require that the parties raise any discovery disputes by "e-fil[ing] a *joint* letter which sets forth the nature of the dispute and provides a summary of each party's position regarding the dispute." (*N.J. Fed. Practice Rules* 701 (2012 ed.) (emphasis added).) Although Defendants have always been willing to work with Plaintiffs to file a joint letter with respect to any issues requiring the Court's guidance, Plaintiffs never approached Defendants about such a letter. Instead, without any notice, Plaintiffs unilaterally filed their own 19-page single-spaced letter, a 14-page appendix, and 192 exhibits at 4:23 p.m. on the Friday before Memorial Day weekend. In addition to running afoul of this Court's express rules, Plaintiffs' approach also deprived the parties of the opportunity to present this Court with any additional discovery issues regarding Plaintiffs' production.

Defendants, therefore, respectfully seek the Court's guidance on how the parties should proceed. If the Court wishes for the parties to file a single joint letter on all outstanding issues in accordance with the Court's Individual Rules, Defendants will work with Plaintiffs to do so. Alternatively, if Your Honor would prefer that Defendants simply

¹ Defendant Dr. Edward M. Scolnick, who is separately represented, joins in this letter.

respond to Plaintiffs' letter, Defendants respectfully request that Defendants be granted until June 15, 2012, to submit their response.

Thank you for the Court's consideration.

Respectfully submitted,


Karin A. DeMasi

Honorable Michael A. Shipp, U.S.M.J.
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VIA ELECTRONIC FILING

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